

BOARD OF SELECTMEN

Minutes of the Meeting of 21 July 2005 at 4:00 PM. The meeting took place in the Cafeteria of Nantucket High School, 10 Surfside Road, Nantucket, MA 02554. Members of the Board present were Douglas Bennett, Whiting Willauer, Bruce Watts, Michael Glowacki and Brian Chadwick. Chairman Glowacki called the meeting to order at 4:00 PM.

Announcements

Chairman Glowacki noted two housekeeping items to be addressed regarding the June 27, 2005 appointments. Mr. Chadwick moved to confirm the appointment of Jeannette Topham to the Scholarship Committee; seconded by Mr. Watts. So voted unanimously. Mr. Chadwick moved to confirm the appointment of Jack Gardner to the Town Government Study Committee; seconded by Mr. Watts. So voted unanimously.

Public Hearing to Consider Amending the Town's Regulations for Use of Town-Owned Beaches to Include the Regulation of Kiteboarding. Chairman Glowacki opened the hearing, advising of the procedure to be followed. Marine Superintendent Dave Fronzuto gave background information and spoke of competing uses in the harbor and public safety concerns. Chairman Glowacki clarified the proposal before the board and Mr. Fronzuto reviewed the most recent Administration proposed amendments to the regulations. Nantucket kiteboarders Mike Alpert and Jay Stebbins noted that they were not in agreement with all the proposed regulations and Mr. Stebbins suggested a simpler two-rule "guideline." Mr. Chadwick voiced concern about the kiteboarders' proximity to the beach. Island resident Jamie Ranney suggested revision of the regulations for inconsistencies and that parties talk to reach agreement. Other residents Jeff Morash and Schuyler Kuhl spoke on behalf of the safety record of kiteboarders here. Edie Ray, a current Beach Management Advisory Committee member, spoke on experiences with kiteboarders that she felt compromised her personal safety and that of endangered species. Lawrence Mannix of 81 Pocomo Road presented information about the dangers of the sport as noted by manufacturers and the sport's magazine. He indicated willingness to compromise to reach an agreement with the kiteboarders. Mr. Bennett moved that the board continue the hearing to August 3, 2005 to allow the parties to meet to come to agreement. Mr. Willauer seconded. So voted unanimously.

Public Hearing to Consider Implementation of Special Sewer Assessments for All Properties Within Siasconset Sewer District in Connection with Construction Cost of Siasconset Wastewater Treatment Facility. Chairman Glowacki opened the hearing, advising of the procedure to be followed. Finn Murphy, Sconset Civic Association (SCA) member, spoke in favor of consideration of special sewer assessments and requested the SCA be included in future discussions on the matter. Discussion followed. Mr. Watts requested that Town Administration contact consultant Mark Abrahams to create a "fair template" that could also be used for future similar situations. Mr. Chadwick moved that the Town's Finance Director be requested to compute the dollar amount of special assessments to be levied within the Siasconset sewer district for the costs of the Siasconset Wastewater Treatment Facilities and expense related thereto and that Town Counsel be requested to prepare the appropriate special assessment orders to implement such assessments in order to be ready for the Board of Selectmen meeting on September 15, 2005. Seconded by Mr. Willauer. So voted unanimously. Upon a suggestion that the hearing be continued to September 15, 2005, Mr. Bennett made the motion. So voted unanimously. Chairman Glowacki excused himself from the table and left the meeting, thus abstaining from the following agenda item. Chairman Glowacki did not return to the meeting.

Public Hearing to Hear Appeal of Moncure Chatfield-Taylor Regarding the Historic District Commission's (HDC) "Reaffirmation" to Approve Certificate of Appropriateness No. 44,237 to Approve Commercial Club House; Certificate of Appropriateness No. 44,458 to Approve Commercial Pool House at 96/97 Washington Street Extension. Vice-chairman Bennett, acting as Chairman, swore in those individuals who would be giving testimony and opened the hearing. Acting Chairman Bennett, stating that the appeals pertaining to the approval of the commercial club house (Certificate of Appropriateness # 44,237) and approval of the commercial pool house (Certificate of Appropriateness # 44,458) would be heard first, asked who wished to speak in favor of the appeal. Moncure Chatfield-Taylor gave a lengthy presentation as to why he feels his appeal should be upheld, stating that he feels the clubhouse and pool house designs do not relate to the existing neighborhood in scale, massing, proportion and style and are inconsistent with the Historic District Commission (HDC) Guidelines as set forth in Building with Nantucket in Mind. Also speaking in favor of the appeal was Union Street resident David Wiley. A large-scale plan of the proposed buildings was displayed and Mr. Wiley expressed his opinion that the scale and massing are out of context for what historically exists at this location. Mr. Wiley compared the size of the existing Steamship Authority terminal to the proposed clubhouse, and noted that the clubhouse is three times the size of the Authority building. Mr. Wiley concluded by expressing his opinion that the second floor decks of the proposed pool house exceed the range called for in the guidebook.

Attorney Sarah Alger, representing Great Harbor Yacht Club (GHYC), spoke in opposition to the appeal. Ms. Alger expressed her opposition to Mr. Willauer sitting on the appeal stating that he "has a conflict." Acting Chairman Bennett stated Mr. Willauer would not be recusing himself from the hearing since he has no direct or indirect financial interest in the outcome and has no affiliation with any organization that has any financial interest in the outcome. Ms. Alger then purported that the appeal of the construction of the clubhouse was originally taken by Robert Paterson, who has subsequently dismissed that appeal "with prejudice." Ms. Alger contended that Mr. Chatfield-Taylor was not the original appellant of the clubhouse, thus cannot appeal the "reaffirmation" of the HDC decision. Ms. Alger also contended that Mr. Chatfield-Taylor's appeals are "untimely" insofar as his appeal letter was submitted "well after the March 28, 2005 deadline." Ms. Alger stated that the minutes of the "reaffirmation" of the Clubhouse and Pool House HDC decisions were filed with the Town Clerk on March 17, 2005. Ms. Alger then spoke on the merits of the appeal, explaining that the Board of Selectmen remanded the matter to the HDC and the HDC reaffirmed its prior decision by a unanimous vote. Ms. Alger stated there are no "new issues" for the Board to consider and the Board can only uphold an appeal if it finds the HDC was arbitrary or capricious, or acted in a legally untenable manner. Ms. Alger contended that the HDC met with the applicant over many months and there is not any evidence that the HDC did not act within the scope of its authority. Also speaking in opposition to the appeal were Bruce Percelay, Kent Murphy, Norwood David, Mike Allen and HDC Chairman Dirk Roggeveen.

Mr. Willauer raised an issue of a perceived ethical conflict involving HDC Commissioner Linda Williams who was said to have a child who was being supported financially by the father who is affiliated with applicant, giving her immediate family a financial stake in the outcome of her votes, and a brief discussion followed concerning this issue. Ms. Alger stated that this issue was discussed at great length during the HDC hearings and it was never brought forward as part of any

appeal. Mr. Willauer also raised an issue with regard to the applicants using a different historical location of the shoreline and the area of the project site that is comprised of filled tidelands. After some discussion, Mr. Chadwick moved to uphold Certificates of Appropriateness Nos. 44,237 and 44,458 issued by the HDC that are the subject of the appeals in this matter finding that the Board of Selectmen's review of the record of the HDC's proceedings does not indicate that said Certificates of Appropriateness are based upon legally untenable grounds, or that they are unreasonable, whimsical, capricious, arbitrary or erroneous; seconded by Mr. Watts. So voted. Mr. Willauer was opposed.

Public Hearing to Hear Appeal of Moncure Chatfield-Taylor Regarding the Historic District Commission's (HDC) "Reaffirmation" to Approve Certificate of Appropriateness Nos. 44,459, 44,460 and 44,481 for Demolition of Three Buildings at 96/97 Washington Street Extension.

Acting Chairman Bennett swore in those individuals who would be giving testimony for the appeals concerning the demolition of three buildings (Certificates of Appropriateness Nos. 44,459, 44,460 and 44,481). Moncure Chatfield-Taylor gave another lengthy presentation and took exception to a letter provided to the Board of Selectmen by Attorney Alger stating he is not a "person aggrieved" as his property does not abut the demolition site. Mr. Chatfield-Taylor stated that he can see the site from his property and "is aggrieved." Mr. Chatfield-Taylor stated that all three buildings are of the age as to be considered as "contributing" to the district but the Commission never explored any options to rehabilitate the existing structures. He spoke at great length concerning this issue. Also speaking in support of this appeal were Christine Silverstein, David Wiley, Liz Coffin and Susan O'Brien.

Ms. Alger again voiced her opposition that Mr. Willauer is sitting on the appeal. Acting Chairman Bennett stated Mr. Willauer would not be recusing himself from the hearing since he has no direct or indirect financial interest in the outcome and has no affiliation with any organization that has any financial interest in the outcome. With regard to the demolitions, Ms. Alger reiterated statements made at the appeal hearing held on December 15, 2004 that an extensive historic study and analysis of each building by experts was conducted and several experts testified and provided reports that the buildings were not determined to be contributing, and had no historical significance. Also speaking in opposition to the appeal were GHYC attorney Ed Woll, who spoke on the HDC demolition policy, and GHYC member Mike Allen, who is also the owner of Grey Lady Marine. Acting Chairman Bennett closed the hearing and after some discussion, Mr. Chadwick moved to uphold Certificates of Appropriateness Nos. 44,459, 44,460 and 44,581 issued by the HDC that are the subjects of the appeals in this matter because the Board of Selectmen's review of the record of the HDC's proceedings does not indicate that the Certificates of Appropriateness are based upon legally untenable grounds, or that they are unreasonable, whimsical, capricious, arbitrary or erroneous; seconded by Acting Chairman Bennett. Mr. Watts and Mr. Willauer were opposed. The vote failed to pass 2-2; therefore, no action was taken at this time on the appeal. Absent action by the BOS, the HDC decision under appeal remains in effect.

There being no further business before the Board, the meeting was unanimously adjourned at 8:10 PM. Approved the 17th day of August 2005.